



Midpeninsula Regional
Open Space District

R-11-121
Meeting 11-33
December 14, 2011

AGENDA ITEM 9

AGENDA ITEM

Adoption of a Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program for the Alpine Pond Habitat Restoration and Interpretive Boardwalk Project and Approval of Phase I, to be Implemented Pending Acquisition of Grant Funds

GENERAL MANAGER'S RECOMMENDATIONS

1. Adopt the attached Resolution of the Board of Directors of the Midpeninsula Regional Open Space District adopting a Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program, pursuant to the California Environmental Quality Act, for the Alpine Pond Habitat Restoration and Interpretive Boardwalk Project.
2. Approve implementation of Phase I of the Alpine Pond Habitat Restoration and Interpretive Boardwalk Project, as described below, pending acquisition of grant funds.

SUMMARY

The Alpine Pond Habitat Restoration and Interpretive Boardwalk Project (Project) was developed to improve habitat for special-status wildlife and enhance public access and educational opportunities at Alpine Pond. In September, the Board of Directors authorized staff to pursue a Habitat Conservation Fund grant to provide matching funds for the Phase I of the Project (refer to Report R-11-26). Phase I includes pond draining and construction of several boardwalk segments. A Mitigated Negative Declaration (MND) and Mitigation Monitoring and Reporting Program (MMRP) were prepared pursuant to the California Environmental Quality Act (CEQA). To complete this application process, certification of the MND/MMRP and formal approval of Phase I of the Project is needed.

BACKGROUND

Alpine Pond is home to the David C. Daniels Nature Center, an interactive educational facility that serves as a centerpiece to the District's outdoor education and public outreach program. The pond also provides known or potential habitat for special-status species including California red-legged frog, western pond turtle, and San Francisco garter snake. Both of these uses of Alpine Pond, however, have been impacted by the existing biological conditions within the pond.

Dense stands of cattail and, to a lesser extent, willows, currently impede public access and viewing around much of the pond's shoreline. Also, robust populations of nonnative predatory fish and crayfish within the pond prey upon special-status species, especially red-legged frogs. To address these and other concerns, the District initiated a long-term management planning process.

In 2008, a team of hydrologists, environmental engineers, and biologists was contracted to examine the biotic and physical conditions at the pond and develop a range of management alternatives. District resource management staff worked closely with the team to develop a preferred management alternative, which includes the following actions:

- Localized control of cattails for several sections along the dam and in the area between the Nature Center and the floating dock;
- Periodic removal of portions of the floating cattail mats on the northern side of the pond using a long-arm excavator;
- A one-time draining, via pump, of the pond in early Fall to eliminate non-native fish, and public outreach/installation of interpretive signage to discourage re-introduction;
- Installation of interpretive trails, boardwalks, and viewing platforms at key locations to permit observation of the pond's different habitat types.

At this time, the Board directed staff to develop an implementation plan for these actions (refer to Report R-08-96).

In January 2010, the landscape architecture firm Restoration Design Group was retained to design the boardwalk and interpretive improvements (refer to Report R-10-10). Preliminary design concepts were vetted in March 2010 by the Use and Management Committee and the preferred design was fully developed into plans and specifications. A biologist with extensive experience in pond management, including draining, was also contracted and assisted in the development of a pond draining and habitat enhancement plan.

DISCUSSION

According to a preliminary cost estimate prepared by Restoration Design Group, the anticipated total cost of the full project is estimated to be approximately \$730,000 (2010 dollars, including a 10% design contingency). In order to implement the project in a timely manner with minimal impacts on other capital projects, staff prioritized the project components and developed a phased approach to implementation (also refer to Attachment A):

Phase I – estimated at \$500,000

- Construction documents and permitting (\$100,000)
- Pond draining, site regrading to improve drainage, and revegetation (\$138,000)
- Boardwalk construction (\$200,000)
- Trail restoration and amenities, drainage improvements (\$60,000)

Phase II – estimated at \$250,000

- Additional boardwalk elements, including a floating box blind and gangway
- Interpretive features: council ring/outdoor classroom, signage, educational materials

In September 2011, the Board authorized staff to apply for a matching grant in the amount of \$257,000 from the Habitat Conservation Fund (HCF) Program to fund Phase I of the project (refer to Report R-11-26). Staff submitted an application packet prior to the October 3, 2011 deadline. However, a Board-approved Mitigated Negative Declaration and Notice of Determination are required to complete the application package.

FISCAL IMPACT

No direct cost is associated with certification of the Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program. Phase I implementation of the Project is contingent upon the award of the HCF Grant. The HCF grant program is expected to announce its grant recipients in July 2012. If HCF grant funds are awarded to the project, District staff will proceed with completing construction documents and preparing a permit package in FY2012-13 for Phase I. The project would be bid and constructed in FY2013-14. The \$257,000 match amount is expected to be included in the FY2012-13 and FY2013-14 budgets. HCF grant monies must be disbursed by 2019 and would reimburse project expenses incurred beyond FY2010-11.

If HCF grant funds are not awarded, staff will continue to pursue other grant opportunities and consider further reducing the scope of Phase I to include only basic, primary elements to further reduce Phase I implementation costs.

CEQA COMPLIANCE

Project Description

The project involves the temporary dewatering of a 2.7 acre pond to eradicate predatory non-native fish to improve breeding habitat for the California red-legged frog, construction of up to 400 linear feet of boardwalk, installation/refurbishment of picnic and informal seating, perimeter trail resurfacing, and upland habitat restoration. Project implementation is contingent upon acquisition of grant or other funding.

CEQA Determination

A MND for the Alpine Pond project was completed and provided to the Board for review as part of a prior Agenda Item to authorize a grant application on September 28, 2011 (refer to Report R-11-26). The public and agency comment period ended on October 17, 2011. Mitigation measures identified in the CEQA document have been designed to mitigate potential negative effects to sensitive natural and cultural resources, and downstream water quality, to a less-than-significant level.

Comments Received

As of October 17, 2011, the District had not received any comments on either the Initial Study or the MND. This completed the CEQA comment period for the project.

Mitigation Monitoring Program

In accordance with CEQA, the District has prepared a Mitigation Monitoring Program, which describes project-specific mitigation measures and monitoring process (Attachment B). The Mitigation Monitoring Program ensures that all adopted measures intended to mitigate

potentially significant environmental impacts will be implemented. The project incorporates all of these mitigation measures.

CEQA Findings

The Board Findings required by CEQA to adopt the MND and the Mitigation Monitoring Program are set out in the attached Resolution (see Attachment C).

PUBLIC NOTICE

A copy of the Notice of Intent to Adopt the MND was provided to Skyline Ridge Open Space Preserve neighbors and other interested parties, US Fish and Wildlife Service, California Department of Fish and Game, San Francisco Bay Regional Water Quality Control Board, and San Mateo County. The public and agency comment period for the project ended October 17, 2011 and, as noted above, no comments were received. Public notice of this Agenda Item was provided per the Brown Act. No additional notice is required.

NEXT STEPS

Following Board approval, a Notice of Determination (Attachment D) will be completed and submitted to the Habitat Conservation Fund program to complete the grant application package. If grant funds are secured, District staff will proceed with completing construction documents and preparing a permit package in FY2012-13 that incorporates Phase I of the project. Phase I would be bid and constructed in FY2013-14. In the event the grant is not awarded, staff would continue to pursue other grant opportunities and consider further reducing the scope of Phase I to further reduce implementation costs. The District would reserve the right to implement later phases of the project in the future as additional funding is secured.

Attachments:

- A. Phase I Site Plan
- B. Mitigation Monitoring Program
- C. Resolution
- D. Notice of Determination

Note: Copies of the Initial Study and Mitigated Negative Declaration were provided to the Board and made available to the public on September 28, 2011.

Prepared by:

Lisa Bankosh, Open Space Planner II

Contact person:

Same as above

**To obtain a copy of the
Initial Study/Mitigated Negative Declaration,
please contact Michelle Radcliffe, District Clerk
at 650-691-1200 or via e-mail at
mradcliffe@openspace.org**

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Attachment A: Alpine Pond Project, Phase I Site Plan
Skyline Ridge Open Space Preserve

- Existing Cattail Wetland
- Existing Seasonal Wetland
- Proposed Seasonal Wetland
- Existing Trail
- Trail Decommissioning
- Proposed Boardwalk
- Proposed Trail Resurfacing

Midpeninsula Regional
Open Space District
(MROSD)

December, 2011



While the District strives to use the best available digital data, this data does not represent a legal survey and is merely a graphic illustration of geographic features.

ATTACHMENT B: MITIGATION MONITORING PROGRAM

**Alpine Pond Habitat Restoration and Interpretive Boardwalk Project
Skyline Ridge Open Space Preserve**

State Clearinghouse Number: 2011092040

San Mateo County, CA

December 2011

Midpeninsula Regional Open Space District
330 Distel Circle
Los Altos, CA 94022-1404

**SKYLINE RIDGE OPEN SPACE PRESERVE
ALPINE POND HABITAT RESTORATION
AND INTERPRETIVE BOARDWALK PROJECT**

MITIGATION MONITORING PROGRAM

This mitigation monitoring program (MMP) includes a brief discussion of the legal basis and purpose of the program, a key to understanding the monitoring matrix, discussion and direction regarding noncompliance complaints, and the mitigation monitoring matrix itself.

LEGAL BASIS AND PURPOSE OF THE MITIGATION MONITORING PROGRAM

Public Resources Code (PRC) 21081.6 requires public agencies to adopt mitigation monitoring or reporting programs whenever certifying and environmental impact report or mitigated negative declaration. This requirement facilitates implementation of all mitigation measures adopted through the California Environmental Quality Act (CEQA) process.

MONITORING MATRIX

The following pages provide a series of tables identifying the mitigations incorporated into the Alpine Pond Habitat Restoration and Interpretive Boardwalk project at Skyline Ridge Open Space Preserve (the project). These mitigations are reproduced from the Mitigated Negative Declaration for the project. The columns within the tables have the following meanings:

Number:	The number in this column refers to the Initial Study section where the mitigation is discussed.
Mitigation:	This column lists the specific mitigation identified within the Mitigated Negative Declaration.
Timing:	This column identifies at what point in time, review process, or phase the mitigation will be completed. The mitigations are organized by order in which they appear in the Mitigated Negative Declaration.
Who will verify?	This column references the District staff that will ensure implementation of the mitigation.
Agency / Department Consultation:	This column references any public agency or District Department with which coordination is required to ensure implementation of the mitigation. California Department of Fish and Game is listed as CDFG. The United States Fish and Wildlife Service is listed as USFWS.
Verification:	This column will be initialed and dated by the individual designated to confirm implementation.

NONCOMPLIANCE COMPLAINTS

Any person or agency may file a complaint asserting noncompliance with the mitigation measure associated with the project. The complaint shall be directed to the District's General Manager in written form, providing specific information on the asserted violation. The General Manager shall cause an

investigation and determine the validity of the complaint; if noncompliance with the mitigation has occurred, the General Manager shall cause appropriate actions to remedy any violation. The complainant shall receive written confirmation indicating the results of the investigation or the final action corresponding to the particular noncompliance.

<i>Number</i>	<i>Mitigation</i>	<i>Timing</i>	<i>Who will verify?</i>	<i>Department or Agency Consultation</i>	<i>Verification (Date & Initials)</i>
Mitigation in Section IV(a).	(BIO- 1) To avoid potential impacts to California red-legged frog, San Francisco garter snake, and western pond turtle, worker environmental awareness training will be conducted for all construction crews and contractors that will be accessing the site. The education training will be conducted prior to starting work on the project and upon the arrival of any new worker. The training will include a brief review of the California red-legged frog, San Francisco garter snake, and western pond turtle, their life history, field identification, habitat requirements for each species, location of sensitive areas, possible fines for violations, avoidance measures, and necessary actions if sensitive species are encountered.	Prior to construction and as needed (in the event of new project staff). Training will be provided prior to beginning project construction and on an as needed basis to ensure that new staff is trained prior to accessing the project site.	District Open Space Planner II or their designee	N/A	
Mitigation in Section IV(a).	(BIO-2) To avoid impacts to CRLF, SFGS, and WPT during the pond draining and removal of non-native fish, the pond drain will be executed by biologists approved by the USFWS to handle these species. Visual surveys will be conducted prior to initiating the draining to identify special-status species present. Appropriate arrangements will be made with United States Fish and Wildlife Service and the California Department of Fish and Game to remove special-status species from harm's way. One hour prior to pumping, and during all pumping activities, a biologist shall be on site. Pumps will not be run until the pump out-flow point or the screen on the intake hose is checked. Biological monitors will also periodically check the intake screen during the pumping process. Monitoring during draining, including visual encounter surveys during random periods over a variety of climatic gradients, will quantify the number of animals that might be dispersing from the site. If deemed necessary by the biologist, cover boards (i.e., 1-meter square plywood panels laying flat on the ground) will be distributed around the pond to facilitate dispersal for CRLF and aide in the ability of monitors to detect dispersal events. If CRLF, WPT, or SFGS are encountered, no work shall occur until the frog, snake, or turtle has left the area on its own, or until appropriate arrangements are made with United States Fish and Wildlife Service and the California Department of Fish and Game.	Prior to and during project construction each day.	Consulting biologists	USFWS CDFG	

Mitigation in Section IV(a).	(BIO- 3) To avoid potential impacts to CRLF, SFGS, and WPT during other project implementation activities, a USFWS-approved biological monitor will be required to be present on site during boardwalk construction, trail resurfacing, habitat restoration, and all other project construction activities within suitable habitat. In areas of suitable habitat, the monitor will survey parking areas, staged equipment, access routes, and the project area prior to the beginning of construction each day. The biological monitor will continue to survey the project area throughout construction each day. If California red-legged frog, San Francisco garter snake or western pond turtle are encountered, no work shall occur until the frog, snake or turtle has left the area on its own, If California red-legged frog, San Francisco garter snake or western pond turtle are encountered, no work shall occur until the frog, snake or turtle has left the area on its own and appropriate arrangements are made with United States Fish and Wildlife Service and the California Department of Fish and Game.	During project construction each day	District Open Space Planner II or their designee	USFWS CDFG	
Mitigation in Section IV(a).	(BIO- 4) To avoid potential impacts to California red-legged frog, San Francisco garter snake, and western pond turtle, all project work within the pond shall be completed when the pond is dewatered and unsuitable for use by aquatic species.	Prior to construction, the pond will be inspected to ensure that it is dry.	District Open Space Planner II or their designee	N/A	
Mitigation in Section IV(a).	(BIO-5) To avoid potential impacts to dusky-footed woodrat nests, a preconstruction survey will be conducted by a qualified biologist. All nests encountered during the survey will be flagged and, if necessary, fenced at radius of five feet, for avoidance during construction. If a nest cannot be avoided, the District will consult with the Department of Fish and Game biologist to dismantle the nest. No work shall occur until the woodrat has left the area.	Within one month prior to construction, the project impact area will be surveyed for woodrat nests.	District Open Space Planner II or their designee	N/A	
Mitigation in Section IV(a).	(BIO- 6) To avoid potential indirect impacts to steelhead spawning habitat downstream of the project area, suspended sediments will be removed from draining pond water through the use of a settling basin or other method, prior to discharging the water to the drainage channel.	Prior to and during construction, sediment removal structures will be inspected to ensure proper functioning	District Open Space Planner II or their designee	N/A	

Mitigation in Section IV(a).	(BIO-7) The District shall install, maintain, and monitor a minimum of 2,400 square feet (0.06 acre) of wetland habitat, consisting of a diverse mixture of wetland plants, on the project site. The restoration plant palette will consist of low-growing species that will not obscure views of the pond, and will be designed to enhance habitat for aquatic invertebrates at the pond. This habitat creation brings impacts to jurisdictional wetlands to a less than significant level.	Immediately following completion of construction activities	District Open Space Planner II or their designee	N/A	
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<i>Number</i>	<i>Mitigation</i>	<i>Timing</i>	<i>Who will verify?</i>	<i>Department or Agency Consultation</i>	<i>Verification (Date & Initials)</i>
Mitigation in Section V(b).	<p>(CUL-1) Implementation of the following measures would reduce potential impacts to cultural and historical resources, including buried and unknown archeological and paleontological resources to a less-than significant level:</p> <ul style="list-style-type: none"> • If any commonly recognized sensitive cultural resources such as human formed artifacts including projectile points, grinding stones, bowls, baskets, historic bottles, cans, or trash deposits are encountered during project construction, every reasonable effort shall be made to avoid the resources. Work shall stop within 100 feet of the object(s) and the contractor shall contact the District. No work shall resume within 100 feet until a qualified cultural and/or historical resources expert can assess the significance of the find. • A reasonable effort will be made by the District to avoid or minimize harm to the discovery until significance is determined and an appropriate treatment can be identified and implemented. Methods to protect finds include fencing and covering with protective material such as culturally sterile soil or plywood. • If vandalism is a threat, 24-hour security shall be provided. • Construction outside of the find location can continue during the significance evaluation period and while mitigation for cultural and/or historical resources is being carried out, only if a qualified cultural and/or historical resources expert is present onsite monitoring any additional subsurface excavations within 100 feet of the find. • If a resource cannot be avoided, a qualified cultural and/or historical resources expert will develop an appropriate 	Throughout project implementation.	District Resource Planner II or their designee	N/A	

<i>Number</i>	<i>Mitigation</i>	<i>Timing</i>	<i>Who will verify?</i>	<i>Department or Agency Consultation</i>	<i>Verification (Date & Initials)</i>
	<p>Archaeological or Paleontological Action Plan for treatment to minimize or mitigate the adverse effects. The District will not proceed with reconstruction activities within 100 feet of the find until the Action Plan has been reviewed and approved.</p> <ul style="list-style-type: none"> • Findings will be detailed in a professional report in accordance with current professional standards. Any non-grave associated artifacts will be curated with an appropriate repository. • Project documents shall include a requirement that project personnel shall not collect cultural and/or historical resources encountered during construction. This measure is consistent with federal guideline 36 CFR 800.13(a) for invoking unanticipated discoveries. 				
Mitigation in Section V(b).	<p>(CUL-2) If human remains are encountered, all work within 100 feet of the remains shall cease immediately and the contractor shall contact the District. The District will contact the San Mateo County Coroner to evaluate the remains, and follow the procedures and protocols set forth in §15064.5(e) of the CEQA Guidelines. No further disturbance of the site or any nearby area reasonably suspected to overlie adjacent remains shall occur until the County Coroner has made a determination of origin and disposition, which shall be made within two working days from the time the Coroner is notified of the discovery, pursuant to State Health and Safety Code Section 7050.5 and Public Resources Code Section 5097.98. If the remains are determined to be Native American, the Coroner will notify the Native American Heritage Commission (NAHC) within 24 hours, which will determine and notify the Most Likely Descendant (MLD). The MLD may recommend within 48 hours of their notification by the NAHC the means of treating or disposing of, with appropriate dignity, the human remains and grave goods. In the event of difficulty locating a MLD or failure of the MLD to make a timely recommendation, the human remains and grave goods shall be reburied with appropriate dignity on the property in a location not subject to further subsurface disturbance.</p>	Throughout project implementation.	District Resource Planner II or their designee	N/A	
Mitigation in Section IX(c).	<p>(HYD-1) Draining pond water shall be subject to both energy dissipation and silt removal techniques. Techniques include, but are not be limited to, a plywood apron, a riprap apron or other energy dissipation barrier and geotextile, silt barrier, or silt curtains, and shall be approved by the</p>	Throughout project construction	District Open Space Planner II or their	RWQCB	

<i>Number</i>	<i>Mitigation</i>	<i>Timing</i>	<i>Who will verify?</i>	<i>Department or Agency Consultation</i>	<i>Verification (Date & Initials)</i>
	Regional Water Quality Control Board to ensure that impacts to downstream water quality are reduced to a less than significant level.		designee		

ATTACHMENT C

RESOLUTION NO. 11-XX

**A RESOLUTION OF THE BOARD OF DIRECTORS OF
THE MIDPENINSULA REGIONAL OPEN SPACE DISTRICT ADOPTING THE
MITIGATED NEGATIVE DECLARATION, THE MITIGATION MONITORING
PROGRAM, AND THE FINDINGS IN CONNECTION WITH THE PROPOSED
ALPINE POND HABITAT RESTORATION AND INTERPRETIVE
BOARDWALK PROJECT (SKYLINE RIDGE OPEN SPACE PRESERVE)**

WHEREAS The Board of Directors of the Midpeninsula Regional Open Space District (“District”) has reviewed the proposed Alpine Pond Habitat Restoration and Interpretive Boardwalk Project and all associated actions (“the Project”) and has reviewed the Mitigated Negative Declaration (“MND”) analyzing the environmental effects of the Project;

NOW, THEREFORE, BE IT RESOLVED by the District Board of Directors that, based upon the Initial Study, Mitigated Negative Declaration, Mitigation Monitoring Program, all comments received, and all substantial evidence in light of the whole record presented, the Board of Directors finds that:

1. Notice of the availability of the Initial Study and Mitigated Negative Declaration and all hearings on the MND was given as required by law and the actions were conducted pursuant to California Environmental Quality Act (CEQA) and the CEQA Guidelines.
2. All interested parties desiring to comment on the MND were given the opportunity to submit oral and written comments on the adequacy of the MND prior to this action by the Board of Directors. No comments were received.
3. Prior to approving the Project that is the subject of the MND, the Board has considered the MND, along with all comments received during the public review process.
4. The MND finds potentially significant effects with respect biological resources, cultural resources, and water quality and the Board hereby finds that these effects will be mitigated or avoided by the changes made in the Project as described in the Initial Study and the MND.
5. The Board finds that, on the basis of the whole record before it, including the Initial Study and MND, that there is no substantial evidence that the Project will have a significant effect on the environment in that, although the proposed Project could have significant effect on the environment, there will not be a significant effect in this case since Mitigation Measures have been made a part of the Project to avoid such effects.
6. The Board adopts the MND and determines that the MND reflects the District’s independent judgment and analysis.
7. The Board adopts the attached Mitigation Monitoring and Reporting Program and will require it to be implemented as part of the Project.
8. The location and custodian of the documents or other material which constitute the record of proceedings upon which this decision is based are located at the offices of the General Manager of the Midpeninsula Regional Open Space District, 330 Distel Circle, Los Altos, California 94022.

To:

Office of Planning and Research
For U.S. Mail: P.O. Box 3044 Sacramento, CA 95812-3044
Street Address: 1400 Tenth St. Sacramento, CA 95814

County Clerk
County of:
Address:

From:

Public Agency:
Address:
Contact:
Phone:

Lead Agency (if different from above):
Address:
Contact:
Phone:

SUBJECT: Filing of Notice of Determination in compliance with Section 21108 or 21152 of the Public Resources Code.

State Clearinghouse Number (if submitted to State Clearinghouse):

Project Title:

Project Location (include county):

Project Description:

This is to advise that the [Lead Agency or Responsible Agency] has approved the above described project on [Date] and has made the following determinations regarding the above described project:

- 1. The project [will will not] have a significant effect on the environment.
2. An Environmental Impact Report was prepared for this project pursuant to the provisions of CEQA. A Negative Declaration was prepared for this project pursuant to the provisions of CEQA.
3. Mitigation measures [were were not] made a condition of the approval of the project.
4. A mitigation reporting or monitoring plan [was was not] adopted for this project.
5. A statement of Overriding Considerations [was was not] adopted for this project.
6. Findings [were were not] made pursuant to the provisions of CEQA.

This is to certify that the final EIR with comments and responses and record of project approval, or the negative Declaration, is available to the General Public at:

Signature (Public Agency) Title

Date Date Received for filing at OPR